

July 14, 2011

CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re

JAMES L. MACKLIN,

Debtor.

Case No.: 10-44610-E-7

JAMES L. MACKLIN,

Plaintiff,

Adv. Proc. No. 11-02024-E

v.

DC No. GJH-001

DEUTSHE BANK NATIONAL TRUST
 CO., AS INDENTURE TRUSTEE FOR
 THE ACCREDITED MORTGAGE LOAN
 TRUST 2006-2 ASSET-BACKED NOTES,
 et al.

TRUSTEE'S MOTION TO INTERVENE

Defendants.

Date: July 28, 2011
 Time: 1:30 p.m.
 Dept: E (Courtroom 33)

To the Honorable Ronald Sargis, U. S. Bankruptcy Judge:

Thomas Aceituno, Chapter 7 Trustee ("Trustee"), by and through his attorney of record,
 hereby moves for an order allowing him to intervene as co-Plaintiff with the Debtor in the above-
 captioned adversary proceeding. The grounds for this motion are as follows:

1. The Debtor filed his Chapter 13 petition in this Court on September 16, 2010.

1 2. After the case was converted to a case under Chapter 7, Intervenor Trustee was
2 appointed as Trustee and continues to hold that position.

3 3. The Debtor has filed the within adversary proceeding against the named
4 Defendants, asserting a variety of theories and claims relating to a loan secured by a residence at
5 10040 Wise Rd., Auburn, CA (“the Subject Property”).

6 4. The Subject Property is property of the Estate.

7 5. The Debtor has filed a First Amended Complaint which asserts the same and
8 different theories and claims, all related to the loan secured by the Subject Property.

9 6. All of the claims asserted by the Debtor in the adversary proceeding are property
10 of the Estate, in that they arise out of pre-petition events and actions by the Defendants.

11 7. The Trustee is the representative of the Estate.

12 8. Because the claims asserted by the Debtor in this adversary proceeding are
13 property of the Estate, the Trustee has standing to assert them.

14 9. Because the claims asserted by the Debtor in this adversary proceeding are
15 property of the Estate, and because the Subject Property is property of the Estate, any resolution
16 of those claims without the involvement of the Trustee could, as a practical matter, impair or
17 impede the Trustee’s ability to protect his interest.

18 10. The Debtor does not adequately represent the interest of the Estate, in that the
19 Debtor is seeking to recover on his own account, and not on behalf of the Estate.

20 11. Pursuant to Fed.R.Civ.P. 24(a), made applicable here by Fed.R. Bankr.P. 7024,
21 the Trustee is entitled to intervene as a plaintiff, as a matter of right, in the within adversary
22 proceeding.

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1 WHEREFORE, the Trustee prays for an order allowing him to intervene as a plaintiff in
2 the above captioned adversary proceeding.
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4 Dated: July 14, 2011

5 HUGHES LAW CORPORATION
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7 By: /s/Gregory J. Hughes
8 Gregory J. Hughes, Attorney for
9 Trustee Thomas A. Aceituno
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